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New York

President:	Mr. Spatafora	(Italy)
Members:	Belgium	Mr. Verbeke
	China	Mr. Liu Zhenmin
	Congo	Mr. Okio
	France	Mr. Ripert
	Ghana	Mr. Christian
	Indonesia	Mr. Natalegawa
	Panama	Mr. Arias
	Peru	Mr. Voto-Bernales
	Qatar	Mr. Al-Nasser
	Russian Federation	Mr. Churkin
	Slovakia	Mr. Burian
	South Africa	Mr. Kumalo
	United Kingdom of Great Britain and Northern Ireland	Sir John Sawers
	United States of America	Mr. DeLaurentis

Agenda

Reports of the Secretary-General on the Sudan

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07-62677 (E)

The meeting was called to order at 10.15 a.m.

Expression of thanks to the retiring President

The President: As this is the first meeting of the Security Council for the month of December, I should like to take the opportunity to pay sincere tribute, on behalf of all members of the Council, to His Excellency Mr. Marty Natalegawa, Permanent Representative of Indonesia, for his service as President of the Security Council for the month of November 2007. I am sure I speak for all members of the Council in expressing deep and sincere appreciation to Ambassador Natalegawa for the great diplomatic skill and leadership with which he conducted the Council's business last month.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court.

It is so decided.

I invite Mr. Luis Moreno-Ocampo to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court. I welcome Mr. Moreno-Ocampo and give him the floor.

Mr. Moreno-Ocampo: Mr. President, thank you for the opportunity to brief the Council on the activities of my Office.

On 31 March 2005, the Council determined that the situation in the Sudan continued to constitute a threat to international peace and security and decided to refer the situation in Darfur to the Prosecutor of the International Criminal Court.

On 5 April 2005, I met with the Secretary-General in New York to receive a sealed envelope with the conclusions of the International Commission of Inquiry on Darfur and a list of 51 names. I read the document; I sealed it again. As the Prosecutor of an independent court, I could not and did not use this list in my subsequent work.

Before opening an investigation, and in accordance with the principle of complementarity, my Office reviewed whether there were national proceedings related to allegations of serious crimes in Darfur. Having found no such proceedings, I opened a first investigation in June 2005.

We examined allegations of crimes committed by all parties. We focused our efforts on the most serious crimes, which occurred in 2003 and 2004. We investigated brutal attacks on the villages of Mukjar, Bindisi, Arawala and Kodoom. We looked impartially at incriminating and exonerating facts. We identified direct victims of crimes living in 17 countries and eyewitnesses who gave strong evidence.

In addition, we collected evidence from a wide range of sources, including the Government of the Sudan. We interviewed Sudanese officials in Khartoum and were provided with the report of the National Commission of Inquiry as well as a report from the Ministry of Defence.

After this, my Office continued to assess whether or not the Sudan investigated the case selected by the Prosecution. My Office met with all Judges and the Prosecutors of the Darfur Special Courts and we also met with the Minister of Justice.

In December 2006, I informed this Council that I was ready to submit evidence to the Judges by February 2007. I indicated, however, that my Office would go to the Sudan to check again information on national proceedings. The mission to Khartoum took place from 27 January to 7 February 2007 and found that no investigations in the Sudan addressed our case.

On 27 February, I presented my evidence to the Judges. On 27 April, the Pre-Trial Chamber of the International Criminal Court issued arrest warrants against Ahmad Harun, former Minister of State for the Interior of the Sudan, and Ali Kushayb, a militia/Janjaweed leader integrated with the popular forces who committed crimes against humanity and war crimes.

The Pre-Trial Chamber found that the case fell within the jurisdiction of the Court and was admissible, without prejudice to future challenges under the Statute. Since then, the Court has received no communication from the Sudan concerning national proceedings. There has been no challenge to admissibility from either the Government or from Ahmad Harun or Ali Kushayb.

The Court transmitted the request to execute the warrants to the Government of the Sudan on 16 June 2007. Interpol Red Notices were subsequently disseminated.

On 17 October, the Registry submitted a request to the Sudan for an update as to activities undertaken in the execution of the warrants and as to any difficulty which may have arisen, with a time limit of 15 November. The Court has received no response from the Sudan.

Under the terms of Security Council resolution 1593 (2005), "the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution". The Sudan, a Member State of the United Nations, has the legal obligation to cooperate to arrest and surrender Ahmad Harun and Ali Kushayb and has the ability to do so.

I report today to the Security Council that the Government of the Sudan has not complied with its legal obligation. The Government of the Sudan has not complied with resolution 1593 (2005). The Government of the Sudan is not cooperating with my Office, or with the Court.

Ahmad Harun and Ali Kushayb have not been arrested and surrendered. While the Sudan continues to publicly insist that it is willing and able to prosecute those responsible for serious crimes, they have done nothing. While the Sudan has known the nature of the case against Ahmad Harun and Ali Kushayb for ten months, they have done nothing. They have taken no steps to prosecute them domestically or to arrest and transfer them to The Hague.

Ali Kushayb, against whom the Government had previously indicated that there was an investigation, was reported on 30 September by the media to have been released for lack of evidence.

Regarding Ahmad Harun, all public information indicates that he would neither be surrendered to the International Criminal Court nor subject to national proceedings. The media reported in August a statement by the Sudanese Minister of Interior Bashir Taha that Harun had been interrogated but the evidence against him did not stand scrutiny. And, he added, whether it did or not, it was a matter for Sudan to decide and act upon and that the Prosecutor had no jurisdiction there; he was an intruder.

Even more serious, there are expressions of support in Khartoum in Harun's favour. Since the issuance of the warrants, Ahmad Harun has been maintained in his current position as Minister of State for Humanitarian Affairs. He is even acting Minister since the withdrawal of the Sudan People's Liberation Movement/Army from the Government. He accompanied President Bashir to Darfur on 18 June 2007. He, along with the Minister of Interior and Director General of the Police, attended the 5 September meeting when President Bashir appointed Nafie Ali Nafie to the Darfur portfolio in charge of the talks in Sirte. On this occasion Ahmad Harun reported on the "improvement" of the humanitarian situation in Darfur. In September, he was also appointed to a committee on human rights violations and breaches of the constitution in the south and north.

There is more. There is more with potential risks for the peacekeeping operations. As of 18 November, the Government's official website announced that Ahmad Harun has now been appointed to the African Union/United Nations Hybrid operation in Darfur (UNAMID) national monitoring mechanism group, overseeing the deployment of UNAMID.

The Sudan, a United Nations Member State, has not complied with its obligation under resolution 1593 (2005) to arrest and surrender the indictees. The Government of the Sudan is repeatedly challenging the Council's authority to give jurisdiction to the International Criminal Court. On 1 November in the General Assembly, the representative of the Sudan, Ambassador Abdalhaleem Mohamad, stated that, since the Sudan was not a member of the Rome Statute, the Court held no jurisdiction there. I will ask the Council to ensure respect for resolution 1593 (2005).

In June, I informed the Council that my Office would monitor current crimes. Today, I will provide as

much clarity as possible on the next steps. I hope that such information will be useful to the Council's work.

In our first case, we demonstrated how, in 2003 and 2004, Ahmad Harun, as Minister of State for the Interior, coordinated a criminal system. He recruited and used militia/Janjaweed to supplement the Sudanese Armed Forces and incite them to attack civilians. In Darfur today, massive crimes continue to be committed. I am therefore preparing to open two new investigations.

First, we have consistent indicia showing a pattern of attacks by Sudanese officials against civilians, in particular against those 2.5 million people who have been forcibly displaced into camps. Secondly, we have reports of an increasing number of attacks against humanitarian personnel and peacekeepers, as happened in Haskanita, with rebel involvement. Let me give the Council further details on those forthcoming investigations.

First, we will investigate present acts of violence against civilians, in particular the victims of displacement. We are witnessing a calculated, organized campaign by Sudanese officials to attack individuals and further destroy the entire community. All information points not to chaotic and isolated acts, but to a pattern of attacks. We cannot and should not deny reality. Calling those crimes "chaos" or "sporadic violence" or "inter-tribal clashes" is a cover-up.

The campaign of terror of 2003-2004 has achieved the forced displacement of 2.5 million people. Most of the villages have been burned down, but in Darfur today, in the few remaining villages, civilians are still being attacked and forced to flee. Examples include the joint attack on Muhajiriya by allied forces of the Government of the Sudan and militia/Janjaweed on 8 October 2007, just two months ago. Forty-eight civilians were killed; people praying in a mosque were rounded up and slaughtered. That was not an inter-tribal clash. The Sudanese Air Force bombing of Adilla in August 2007, producing 20,000 new displaced persons, was not an inter-tribal clash.

In the camps, 2.5 million victims already displaced are subjected to persecution and abuses — sexual violence, illegal detentions and unlawful killings. Far from disarming the militia/Janjaweed, as it committed to do, the Government of the Sudan has for the most part integrated them into its security apparatus and stationed them in the vicinity of camps. Rapes of women when they leave the camps are systematic. That is not an inter-tribal clash.

In the camps, 2.5 million victims are deliberately kept in a state of destitution. Obstacles to the delivery of aid are part of the pattern of attacks. In the camps, 2.5 million persons are deliberately kept in a state of insecurity, surrounded by hostile forces and threatened with forced relocation to hostile territory.

Instead of upholding their promises to facilitate returns, Sudanese officials are said to facilitate the settlement of militia/Janjaweed supporters on land inhabited previously by Fur and Masalit. In addition, approximately 35,000 Chadians have also been encouraged to settle in destroyed villages or surrounding land. Fur, Masalit and Zaghawa are thus deprived of a safe place to return. Resettlements are consolidating the displacements. Victims are faced with two options — remaining under attack in the camps or going back to hostile territory. Let me repeat that: Victims are faced with two options — remaining under attack in the camps or going back to hostile territory. They are left with no hope for the present and no prospect for the future. That is how the slow destruction of entire communities is pursued — in full sight of the international community.

The Sudan is not fulfilling its duty to protect its citizens and is allowing members of the Government to attack them. As Minister of State for Humanitarian Affairs, Ahmad Harun — a man indicted by the International Criminal Court — is responsible for providing relief, for working with international aid organizations and for coordinating with relevant security organs the security in the internally displaced persons camps. Formally, he shares responsibility for the safety and well-being of the displaced population. In reality, he joins in constant abuses against them.

The Humanitarian Aid Commission, a component of the Ministry for Humanitarian Affairs, comprising mostly security personnel, is allowed to enter and gather intelligence within the camps. They promote organized disturbances with the assistance of factions close to the Government. Then, as international actors and sheikhs try to find solutions, the camps are raided by security forces. These are not inter-tribal clashes.

Ahmad Harun himself was present during specific operations against internally displaced persons camps in past months. He was in Nyala on 20 August,

as arrest operations started in Kalma. That was not an inter-tribal clash.

All indications show that the so-called eruptions of violence and in-fighting in the camps reflect a well-designed strategy. Local civilian leaders are killed or arrested to undermine any structure within the camps. Attempts are made by Sudanese officials to dismantle the big camps, including by trying to forcibly relocate the displaced. We have witnessed the same modus operandi in Kalma and Hamadiya in past months. The objective is to disperse the inhabitants of the bigger camps into smaller groups, which are easier to control.

The Humanitarian Aid Commission also plays a pivotal role in hindering humanitarian assistance. Aid workers must have Commission permission to enter the Sudan and then Darfur. The Commission manages the complex system of permits needed to access camps. When international staff expose the reality, they are expelled. There is no connection here with inter-tribal clashes.

Allow me to remind the Council that the Commission is nothing new in the Sudan. In fact, it is similar to the Peace and Resettlement Administration created in South Kordofan in the 1990s. That Administration had close links to national security, was dominated by former security staff, oversaw internally displaced persons camps and collected information to prepare attacks on villages. Ahmad Harun was Executive Director of the Administration from 1997 until 2000.

In Darfur in 2003 and 2004, we witnessed the first phase of the criminal plan coordinated by Ahmad Harun. Millions of people were forced out of their villages and into camps. Now, in the second phase — happening right now in front of our eyes — the victims are being attacked in the camps.

Ahmad Harun is a key actor, but he is not alone. Failure to take any steps to investigate or arrest him and failure to remove him from office are clear indications of the support he receives from other high officials.

The failure to protect persons displaced from constant attacks by militia/Janjaweed and Government of the Sudan agents and the failure to facilitate the deployment of peacekeepers who could protect the victims are clear indications of endorsement, acquiescence or active participation by other high officials.

My Office will proceed to investigate who bears the greatest responsibility for ongoing attacks against civilians, who is maintaining Harun in a position to commit crimes and who gives him instructions. That is my second case.

Allow me now to address our other new investigation. On 29 October, 10 soldiers of the African Union Mission in the Sudan (AMIS) were killed, eight were injured and one was unaccounted for after the attack on the Haskanita base. The incident appears to have been committed by rebel forces. It represents an increasing trend in attacks against African Union, United Nations and other international workers by various forces, a trend which my Office is monitoring with concern. Attacks on humanitarian convoys have a devastating effect.

Such attacks or threats of attack on peacekeepers and aid personnel will be investigated by my Office. They can constitute a war crime under the Rome Statute. They also further undermine efforts to protect the civilian population.

We note with concern that the Sudan is taking no measures to protect international forces. There are allegations that some Sudanese aircraft have been painted with United Nations or African Union colours and are used in Darfur. Such acts — among others — undermine the United Nations and African Union, create the impression of collusion and can encourage attacks against them.

I wish to take this opportunity to ask all members of the Security Council, all States Members of the United Nations and all relevant organizations to volunteer specific information and thus assist in conducting our two new investigations.

Allow me to address further the issue of cooperation. First, I want to thank all those who have responded to our requests for information on the possible movements of our indictees. I am pleased to report that no State has been reluctant to share information.

Regarding cooperation with the African Union, Deputy Prosecutor Fatou Bensouda and I met with members of the African Group in New York. I thank South Africa for having hosted such meetings. On 20 June 2007, I updated the President of the African

Union, Ghanaian President Kufuor, on our work in Darfur. We also met with the representative of Congo in August in his then-capacity as President of the Security Council.

Since June, the Deputy Prosecutor and I have met, respectively, with Secretary-General Ban Ki-moon and Deputy Secretary-General Asha-Rose Migiro. I am very grateful for the Secretary-General's efforts to remind President Al-Bashir of his obligation to execute the arrest warrants.

Since June, I have also briefed the European Union and ministers of European Union member States. I have continued constructive exchanges with the Secretary-General of the League of Arab States and with its member States on international criminal justice. I have been invited to visit a number of States in the region next year. Their support for the independence and impartiality of my work is invaluable.

I have informed the Security Council today that the people of Darfur are being attacked by members of the Government in their homes and in the camps. This is the reality. Ahmad Harun, a man charged with 50 counts of crimes against humanity and war crimes should not be entrusted with his victims' safety. He must be arrested.

Maintaining Harun in his position is a clear indication of collusion with other officials. Who is taking responsibility for supporting him? This is the new case I will bring to the Judges. Maintaining Harun in his position is a direct threat to millions of victims and to the humanitarian workers and peacekeepers seeking to protect them.

When will there be a better time to arrest Harun? How many more women and girls have to be raped? How many persons have to be killed? Must we really wait, again, for the destruction of entire communities?

I ask the Security Council for consistency. I ask the Security Council to send a strong and unanimous message today to the Government of the Sudan, requesting compliance with resolution 1593 (2005), requesting the execution of the arrest warrants. This same consistency is needed throughout the United Nations. It would be both inaccurate and confusing to convey in any way to the Government of the Sudan that the arrest warrants and the obligation to comply with resolution 1593 (2005) will go away.

The only realistic solution today is to request the removal and arrest of Harun as a first step to any solution. That will send a signal to the perpetrators of crimes in Darfur that the international community is not only watching, but will also hold them accountable for their actions. The Council can make a difference; it can break the criminal system. What is at stake is, quite simply, the life or death of 2.5 million people.

The President: I thank Mr. Moreno-Ocampo for his briefing. I shall now call on the members of the Security Council who wish to take the floor.

Mr. Arias (Panama) (*spoke in Spanish*): Mr. President, allow me, first of all, on behalf of Panama and my delegation, to express our gratitude for the report of Prosecutor Moreno-Ocampo, in particular for his outstanding work at the head of the Office of the Prosecutor of the International Criminal Court (ICC). We are aware of the difficult task that the Prosecutor of that institution faces, and we urge him to continue to tackle his work with the same ability with which he has done so over all of these years.

The crime of genocide and crimes against humanity that the world witnessed at the end of the last century resulted, inter alia, in the establishment of special criminal tribunals for Rwanda and the former Yugoslavia. Furthermore, they motivated a group of States to form a universal tribunal to try this type of crime. The Rome Statute, through which the International Criminal Court was established, stipulates in article 13 (b) that the Security Council, acting under Chapter VII of the United Nations Charter, can refer to the Court a situation in which there are indications that one or more such crimes that are under the Court's competence have been committed. Indeed, in resolution 1593 (2005) the Security Council referred the situation in Darfur to the Prosecutor of the Court for investigation and, if necessary, to try individuals held responsible for violations of international humanitarian law and of human rights. Moreover, the Council decided that the Government of the Sudan and the other parties to the conflict in Darfur should cooperate with the Court and with the Prosecutor.

After 20 months of investigation, the Prosecutor determined the existence of sufficient evidence to try Colonel Ahmad Harun and Ali Kushayb for crimes against humanity committed in Darfur. The Judges of the Court, as a result, issued arrest warrants for both of these individuals in April 2007. To date, the

Government of the Sudan has ignored those warrants, as was confirmed to us today by Mr. Moreno-Ocampo, and does not permit the Court to fulfil its duties. Moreover, that represents contempt for international obligations on the part of the Sudan and disregard for the authority of this Council.

The Sudan's lack of compliance violates the fundamental principles of the United Nations Charter. Moreover, if the Council were to ignore that contempt, that would open space for future acts of contempt. Therefore, it is the duty of this Council to demand that the Government of the Sudan and all other parties to the conflict in Darfur fulfil their obligation to cooperate with the Court, as set out in resolution 1593 (2005). Otherwise, this Council would not be fulfilling its own obligations under the Charter.

At the same time, we are concerned that the civilian population continues to suffer from coordinated attacks and systematic violations of human rights. We cannot allow the conflict in Darfur to continue to serve as an incentive for ongoing crimes against the dignity of the human being. We support the International Criminal Court in its investigation of all of these cases.

Finally, with regard to the attacks on the members of the United Nations peacekeeping forces in Darfur, they must be subject to the strictest investigation by both the United Nations and the Government of the Sudan.

Mr. Ripert (France) (*spoke in French*): In spite of the distressing nature of today's debate, I would first like to use this opportunity to thank the Ambassador of Indonesia for the way he presided over the Council during November, to wish you, Mr. President, success and to assure you of our support during your presidency.

I would like to thank Mr. Moreno-Ocampo for the detailed, very moving and concise report he has presented to us in compliance with resolution 1593 (2005). Through that resolution, the Security Council referred to the Prosecutor of the International Criminal Court (ICC) the situation in Darfur since 1 July 2002. In accordance with Chapter VII of the Charter, the Council thus intended to make the fight against impunity for the crimes committed in Darfur a key element in the solution to the threat to peace and security in the Sudan and in the region, of which the Council was seized.

France welcomes the fact that the Security Council has shouldered its responsibilities to ensure that the fight against impunity does not remain a dead letter, as the atrocities committed in Darfur are contrary to the founding principles of the United Nations. Twenty months later, the report presented by Mr. Moreno-Ocampo, a perfectly clear and precise report, makes the following affirmations.

First, crimes that come under the jurisdiction of the ICC and which come under the purview of resolution 1593 (2005) continue to be committed in Darfur, including against the 2.5 million persons who have been forcibly displaced to the camps, and against humanitarian personnel. The Prosecutor spoke of massive crimes, and, like him, we note the extent of the acts of sexual violence, arbitrary arrests and assassinations. I also note the organized, voluntary and concerted nature of those systematic acts of violence.

Secondly, the Sudanese Government is not cooperating with the Court, nor is it implementing the arrest warrants the Court issued on 27 April for war crimes and crimes against humanity against Ahmad Harun, the former Minister for the Interior and the current Minister for Humanitarian Affairs, and Ali Kushayb, the head of the militia. The Prosecutor has indicated the direct involvement of these individuals in the crimes committed in Darfur.

Thirdly, not only is the Sudanese Government not executing the arrest warrants, but is in fact impeding the work of the Court by denying the existence of the alleged crimes and by appointing Ahmad Harun to a post which has given him direct power over the individuals whose displacement he ordered under his previous functions, and — the height of irony or of provocation — putting him in charge of the Sudan's relations with the United Nations. As for Ali Kushayb, his actions and freedom of movement have in no way been impeded.

In paragraph 2 of resolution 1593 (2005), the Security Council decided "that the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor". This is a decision taken by the Council.

Despite the in-depth investigation conducted by the Prosecutor, which clearly detailed the manner in which the crimes committed by Ahmad Harun and Ali Kushayb were perpetrated, the Sudanese Government

denies the crimes and protects those individuals. The Government has not followed up with the required legal proceedings in view of the results of the Prosecutor's investigation. The conditions for applying the principle of complementarity, which permits the Court to exercise its jurisdiction, have thus been fulfilled.

The lack of cooperation by the Sudanese authorities prevents the Court from exercising its jurisdiction. As a result, France shares the conclusion outlined by Mr. Moreno-Ocampo that the Sudanese Government has not fulfilled its legal obligations in the implementation of resolution 1593 (2005). The Prosecutor has just recalled for us that Harun alone is currently charged with 50 counts of war crimes and crimes against humanity.

Our Council must react in view of these facts. We must do our utmost to support the efforts of the Court so that it is able to fulfil the task we entrusted to it when we referred to it the situation in Darfur. Clearly, that requires the execution of the arrest warrants against Ahmad Harun and Ali Kushayb. The Sudanese Government must be reminded of its obligations and responsibilities. We owe that to the thousands of victims and the 2.5 million internally displaced persons who still live in the terror of the camps.

In its resolution, the Council encouraged the Court to support international cooperation with efforts to promote the rule of law, protect human rights and combat impunity in Darfur. It underscored the need to promote healing and reconciliation in order to strengthen efforts to restore durable peace.

In that spirit that we must today forcefully express our support for the International Criminal Court in fulfilling its mission. It is the indispensable complement of our actions to bring about political reconstruction and to ensure security on the ground through the deployment of a hybrid force — which, as I recall, is still being impeded, in particular by obstacles created by the Sudanese Government.

My Government wishes therefore to state very clearly that the Security Council should adopt a declaration reminding the Sudan very firmly of its obligation to cooperate with the International Criminal Court.

Sir John Sawers (United Kingdom): May I join my colleagues in thanking Prosecutor Moreno-Ocampo for all the efforts he and his Office have made over the past six months to implement the mandates conferred by the Security Council on him to investigate the situation in Darfur. And I would like to thank him in particular for his report and his statement today, which was a frank and disturbing account of recent events in Darfur and in the Sudan relevant to the mandate of the International Criminal Court (ICC).

The United Kingdom is a strong supporter of the ICC. We see it as a central pillar of the international community's efforts to combat impunity for the most serious crimes of international concern. Justice is an essential part of delivering a sustainable peace in Darfur, as we recognized when the Security Council adopted resolution 1593 (2005). It is important that those who have been accused of the most serious crimes are brought to justice.

My Government is therefore gravely concerned that the two individuals for whom the Court has issued arrest warrants remain at large and that the Government of the Sudan has not given any cooperation to the Court. We note that since the warrants were transmitted to the Government of the Sudan in June this year, instead of cooperating with the Court in the execution of the warrants, as it is legally obliged to do under resolution 1593 (2005), the Government has instead adopted the course of protecting the indictees. The Prosecutor's accounts of the activities of Ahmad Harun and the protection he enjoys from the Sudanese Government is of special concern.

The Government of the Sudan clearly has the ability to arrest and surrender the two indictees to the Court but has chosen not to do so, in defiance both of the International Criminal Court and of the Security Council.

We are also deeply concerned by the Prosecutor's reports of ongoing crimes in Darfur against civilians, including displaced persons within their camps, and against humanitarian workers and United Nations and African Union personnel. The numerous incidents catalogued in the Prosecutor's report illustrate the very grave humanitarian situation which continues to exist in Darfur. My Government deplores acts of violence committed by all parties to the conflict and calls on all sides to work together towards a peaceful resolution.

I therefore urge the Government of the Sudan, on behalf of the Government of the United Kingdom, to

comply with its obligations under resolution 1593 (2005) and to cooperate with the Court, specifically by ensuring the immediate arrest and surrender of the two indictees.

We also call on all other parties to the conflict in Darfur to cooperate fully with and provide any necessary assistance to the Court and its Prosecutor. There can be no impunity for the terrible crimes committed in Darfur.

The Security Council should, in the view of the United Kingdom, give its full and public backing to the International Criminal Court. In the light of the Prosecutor's account of the failure of the Government of the Sudan to cooperate, that warrants a formal response by the Council today, as suggested by the Permanent Representatives of Panama and France. I agree with their proposals and I hope that such a response can be agreed.

Mr. Verbeke (Belgium) (*spoke in French*): First of all I wish to thank Prosecutor Moreno-Ocampo for his briefing, which has moved us and cannot leave us indifferent. I wish to reiterate the importance that Belgium attributes to the key role of the International Criminal Court (ICC) in combating impunity and suppressing crimes of genocide, crimes against humanity and war crimes.

My country has had the opportunity on several occasions to express its firm support for the Court, in particular through its Prime Minister Guy Verhofstadt during the Security Council debate at the level of heads of State and Government in September, under the French presidency (see S/PV.5749). The Prime Minister expressed very clearly the feeling of horror and revulsion caused by crimes committed in Uganda and called for the immediate arrest of Mr. Joseph Kony and other individuals against whom the Court has issued arrest warrants.

As regards the situation in the Democratic Republic of the Congo, my delegation is delighted with the excellent cooperation between the authorities of the Democratic Republic of the Congo and the Court which has lead to the transfer of Mr. Thomas Lubanga and Mr. Germain Katanga to The Hague.

With regard to the situation in the Central African Republic, which is currently the subject of an inquiry of the Office of the Prosecutor, we are following that situation very carefully.

The situation we are discussing this morning, that of Darfur, is different from previous situations mentioned since it was referred to the Prosecutor by this Security Council in resolution 1593 (2005). The question here is not therefore to know if we support the International Criminal Court in general terms. The question concerns respect for a resolution of the Security Council — adopted under Chapter VII of the Charter — which unambiguously stipulates that

> "the Government of Sudan and all other parties to the conflict in Darfur shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor". (*resolution 1593 (2005), para. 2*)

From the report before us, it would seem not only that the Government of the Sudan is failing to cooperate with the Prosecutor as required by the Security Council, but also that, since the issuance of arrest warrants by the Court's Pre-Trial Chamber against Mr. Ahmad Harun and Mr. Ali Kushayb, the signs of official support for those two persons have continued.

This blatant refusal to cooperate shows great contempt not only for alleged victims of crimes against humanity and war crimes, but also for decisions taken by the Security Council on behalf of the international community. That is why my delegation, like others, is in favour of a clear reminder by the Council of the terms of resolution 1593 (2005) and the obligations set out therein, not only so that justice can be done, but also so that due respect for the Council can be recalled.

As the Council recalled in the presidential statement adopted on 24 October 2007 (S/PRST/2007/41), on the situation in the Sudan, "due process must take its course". Clearly, the requirement of justice is a requirement in and of itself, but we are convinced that it is also a factor for peace and stability that is part of a larger process. In the activities of the International Criminal Court related to the Sudan, it is not only the fight against impunity for past crimes that is at stake. The report of Prosecutor Moreno-Ocampo reminds us how worrisome the violence in Darfur is today and that, at this very moment, crimes falling under the Court's jurisdiction are being committed in the region on a large scale and in a systematic and deliberate manner. We shall continue to follow very closely the developments in the situation and the activities of the Office of the Prosecutor in that regard.

In Darfur, the search for a comprehensive solution involves a four-pronged approach: political, military, humanitarian and judicial. We regard the elements of such a fourfold approach as complementary.

Finally, I should like to stress that we are also paying close attention to other parts of Prosecutor Moreno-Ocampo's report, particularly its description of the impact of the situation in Chad and the Central African Republic.

Mr. Rogachev (Russian Federation) (*spoke in Russian*): I wish to join others in thanking Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for his briefing and for his six-monthly report on the work done by his Office in investigating the situation in Darfur.

The Russian delegation commends the efforts of the Prosecutor's Office to resolve the very difficult issue of bringing to justice those accused of committing crimes in Darfur. However, it would probably be a mistake to limit the work of the ICC in the Sudan to combating impunity. We regard that work in broader terms, as part of the overall efforts to resolve the situation in the region.

It is with great regret that we have learned that cooperation between the ICC and the Government of the Sudan is now in a state of near collapse. Clearly, the current atmosphere of mistrust between the Sudan and the ICC is not helping the investigation. We need to step up our efforts to promote a constructive dialogue between the parties. We call on the Sudanese authorities to take the necessary measures in that regard, including within the framework of existing legal procedures and mechanisms.

An important aspect of creating an atmosphere of trust would be for the investigation to focus on crimes committed by rebels. Efforts by the Prosecutor to that end would assist the peace process and encourage all parties to the conflict to seek dialogue and a cessation of violence. Another important aspect would be full involvement by the Sudanese legal system in investigating the crimes committed. Further promotion of dialogue between the ICC and the African Union could also facilitate the situation.

Monitoring the humanitarian situation in Darfur is an important part of the work of the Prosecutor's Office. We are grateful to the Prosecutor for the information that he has given us. Although this subject is addressed in other reports and discussed separately in the Security Council, it would be desirable, in terms of the implementation of resolution 1593 (2005), to devote attention to situations that obviously involve crimes: for example, attacks against civilians and peacekeeping convoys. We believe it is regrettable that the investigation has not yet managed to fully address the attack on peacekeepers in Haskanita.

The report presented in the briefing describes a shift to a new, politically sensitive phase in the investigation in Darfur. At this juncture, we must act with extreme caution to promote the Hybrid Operation in the region, fully mindful of the consequences that any actions regarding the situation in the region could have for hundreds of thousands of people.

Mr. Liu Zhenmin (China) (*spoke in Chinese*): The Chinese delegation would like to congratulate you, Sir, on Italy's assumption of the presidency of the Security Council for the current month. You and your team can count on our full support. We also wish to thank the Permanent Representative of Indonesia for his important work as President last month.

China wishes to thank Prosecutor Moreno-Ocampo for his briefing and commends the International Criminal Court (ICC) for its efforts to resolve the problem of impunity in Darfur, Sudan. The causes of the problem in Darfur are complex. Any settlement plan must ensure that the correct solution is found.

After years of dealing with the issue, the international community's approach to resolving the problem of Darfur is continuing to develop. Currently, the consensus on all sides is that, in dealing with the Darfur problem, we should comprehensively address all its aspects — political, security, humanitarian, development and judicial. We must strike a balance in undertaking measures involving those aspects. Appropriate and sound decisions should also be taken on the basis of the priorities involved at various times. Even more important, all aspects of such efforts should be complementary and mutually reinforcing, not truncated and isolated.

From the very outset, China has believed that the most urgent aspect of resolving the problem of Darfur is to stabilize and improve the security situation. At this point, the international community is moving forward with its two-track approach and accelerating

the deployment of the Hybrid Operation on the ground. At the same time, it is striving to move forward the political negotiations on Darfur. That is now the overall objective in the Darfur situation, and work on all other aspects should contribute to its attainment.

China supports the international community's continuing efforts to resolve the problem of impunity in the region. We hope that judicial bodies in the Sudan will continue to make efforts in that regard. We encourage the Government of the Sudan to continue to step up its communications, establish mutual trust and strengthen cooperation with the ICC.

In our view, it is only through an improvement of the situation in Darfur and the stabilization of the political situation that the problem of impunity can be resolved. Only then will judicial fairness be fundamentally achieved. The ICC became involved in the problem of Darfur on the basis of a Security Council resolution mandate. Its work should also complement the efforts of the international community to advance the political process and deploy peacekeepers. It is necessary to seek and obtain the support and cooperation of the Sudanese Government. To ignore the overall political and security situation there, simply stress ending impunity and push solely for mandatory measures is an approach unlikely to result in cooperation and support from the Sudanese Government. It would also hardly be conducive to the overall efforts of the international community to resolve the problem of Darfur.

Ending impunity is an essential component of resolving the problem of Darfur. We support the ICC in playing a constructive role and hope that the Security Council will achieve a comprehensive resolution to the problem of Darfur.

Mr. Burian (Slovakia): We also would like to thank Mr. Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for his valuable and sobering briefing, as well as for his comprehensive report to the Security Council pursuant to resolution 1593 (2005). We would also like to take this opportunity to commend the Prosecutor for his outstanding work.

Slovakia is deeply concerned about the serious crimes and gross violations of human rights in Darfur, and especially about the systematic pattern of targeting civilians, including women and children. We also strongly deplore the ongoing deliberate attacks against United Nations personnel, African Union staff and a number of relief workers in the region. In that regard, we would like to underline the responsibility of the Government of the Sudan to bring an end to crimes in Darfur and to not allow impunity. We would like to reiterate our view that bringing to justice the perpetrators of those horrible crimes and abuses should be an integral component of a comprehensive solution for Darfur. We also believe that it will be hard, if not impossible, to achieve lasting peace in Darfur without addressing impunity.

We note with concern the observation that the Government of the Sudan has refused to cooperate with the ICC and has failed to execute the arrest warrants issued against Ahmad Muhammad Harun and Ali Kushayb. We wish to underline that the Government's lack of cooperation with the ICC is unacceptable. In our view, it is also totally unacceptable that Mr. Harun continues to serve as Sudan's Minister of State for Humanitarian Affairs, with authority over the refugee camps that were created as a direct consequence of his allegedly criminal activities in Darfur. It is shocking that he also controls the flow of humanitarian aid in Darfur. Moreover, we agree with the observation that his presence in the Government creates the impression that the Government of the Sudan is protecting the indictees, or even supporting the horrible crimes.

We would therefore like to emphasize that under resolution 1593 (2005) all States, including the Sudan, must cooperate fully with, and provide any necessary assistance to, the ICC and its Prosecutor. In that regard, we call on the Government of the Sudan to accept the ICC's jurisdiction and to start effective cooperation with it, including by arresting those two individuals and surrendering them to the ICC.

Finally, we agree with Mr. Moreno-Ocampo and previous speakers that the Security Council must send a strong and unanimous message to all perpetrators that it will not tolerate impunity and disregard for international legal obligations. We would like to express our support for the proposal to adopt a clear Security Council statement in that regard.

Mr. DeLaurentis (United States of America): Let me say up front that the concerns of the United States about the Rome Statute and the International Criminal Court (ICC) are well known and have not changed. In spite of those concerns, we very much appreciate the

report of Prosecutor Moreno-Ocampo with respect to his work pursuant to resolution 1593 (2005).

The United States has consistently supported bringing to justice those responsible for crimes, human rights violations and atrocities in Darfur. The violence in Darfur must end. Those who have committed atrocities in Darfur must be brought to account.

We share the Prosecutor's assessments that the ongoing situation in Darfur is alarming and that justice for crimes against the people of Darfur is needed to enhance security and send a warning to individuals who might resort to criminality as a way of achieving their aims.

The United States is particularly troubled by the Prosecutor's report that the Government of the Sudan is still not cooperating and has taken no steps to arrest and surrender the two individuals that are subject to ICC arrest warrants, namely, Ahmad Muhammad Harun, current Minister of State for Humanitarian Affairs, and the Janjaweed leader known as Ali Kushayb. We call on the Sudanese Government to cooperate fully with the ICC, as required by resolution 1593 (2005).

As we noted following the Prosecutor's last briefing to the Council on Darfur, the United States has imposed targeted economic sanctions against certain individuals responsible for the violence, a transport company that has moved weapons to the Janjaweed militia and Government forces, and companies owned or controlled by the Government of the Sudan.

We also share the Prosecutor's concern about the increasing number of attacks, not only on displaced persons and other innocent civilians but also on personnel of the African Union and the United Nations and international aid workers. Violence and criminality against those who came to help the suffering people of Darfur are intolerable. Impunity for such acts must end.

The United States continues to be deeply committed to peace, stability and the provision of humanitarian aid for the people of the Sudan. Presidential Special Envoy Natsios and Deputy Secretary Negroponte have both visited the Sudan the past year to consult with all parties to stress our continued support for the Darfur Peace Agreement and the Comprehensive Peace Agreement and the deployment of the African Union-United Nations Hybrid Operation in Darfur as mandated by resolution 1769 (2007). We also continue to urge those who have not signed the Darfur Peace Agreement or agreed to participate in the peace process led jointly by the United Nations and the African Union to do so quickly, so that efforts to rebuild Darfur may accelerate.

The United States believes strongly in the need for accountability for acts of genocide, war crimes and crimes against humanity committed in Darfur. We look forward to continuing to work with other members of the Council on constructive steps to achieve that important objective.

Mr. Natalegawa (Indonesia): Allow me, first, to congratulate you, Mr. President, on your assumption of the presidency of the Security Council for the month of December and to assure you of my delegation's full support in the conduct of your work. I should also like to thank you for the kind words addressed to Indonesia as President of the Council for the month of November.

We thank Mr. Moreno-Ocampo for his briefing regarding the activities of the International Criminal Court (ICC) since June 2007.

Various atrocities continue to be committed by all sides in Darfur. We note that since the Prosecutor's briefing last June, the ICC has delivered requests to the Government of the Sudan for the arrest and surrender of certain individuals. Those requests were also reiterated in statements by the Prosecutor and Court officials, including by the President of the ICC to the General Assembly. My delegation notes and appreciates the Prosecutor's efforts to pursue contacts with the Sudan's neighbours, the United Nations Secretariat, the African Union (AU), the League of Arab States, local groups, non-governmental organizations (NGOs) and others. We also note the Prosecutor's position that alleged attacks committed by rebel factions against peacekeepers and humanitarian convoys warrant further investigations.

It is deeply troubling that the conflict in Darfur is continuing, with the attending consequences of a worsening humanitarian situation. The displacement of the population, the deliberate attacks on civilians, humanitarian personnel and peacekeepers as well as tribal clashes can, if unchecked, only create more difficulties for the establishment of peace. The civilian toll of the conflict also gives us pause. It has also been the worst year for the African Union Mission in Sudan (AMIS) peacekeepers in terms of staff killed and

wounded — more than half of the AMIS personnel killed since the mission's deployment in 2004 were killed this year. The Council condemned the Haskanita attack against AMIS at the end of September, which killed 10 AU peacekeepers. The Council has also demanded that no effort be spared to identify and bring to justice the perpetrators.

My delegation condemns the continued gross violations of human rights and international humanitarian law in Darfur. These crimes are egregious affronts to the norms, rules and collective conscience of the international community. The perpetrators of those acts must be brought to justice. We extend our deepest sympathies and solidarity to the victims for their suffering, as well as to the people of the Sudan, who continue to face the impact of conflicts in their country. In the interest of the victims and the community as a whole, justice must be served without unnecessary delay.

This Council received important briefings from Special Envoy Jan Eliasson and Under-Secretary-General Guéhenno last week on the status of the political process and deployment of the African Union-United Nations Hybrid Operation in Darfur (UNAMID). Using the Addis Ababa conclusions of last year as a yardstick, we believe we are making some headway in the political process and the deployment of UNAMID. The briefings, however, also made clear the challenges confronting those efforts. They include the boycott of the Sirte talks, a lack of critical specialized units for UNAMID and difficulties in the talks between the Secretariat and the Sudanese authorities on the follow-up to resolution 1769 (2007).

These developments point to the need for the Council to continue to enhance its efforts to attain a political framework for peace and a sustainable ceasefire, supported by effective peacekeeping. Moreover, we believe that it is essential that the Council maintain its unity, encourage the parties in the Sudan to participate constructively in the peace process and push forward with the Hybrid Operation.

While peace cannot be complete and sustainable without justice, justice cannot prosper in the absence of peace. The implementation of resolution 1593 (2005) should pay due regard to the wider efforts to achieve peace in the Sudan. Dialogue and cooperation with the Government of the Sudan is key.

The role of the ICC, in accordance with the Rome Statute, should be complementary to national criminal jurisdiction. We believe that the implementation of resolution 1593 (2005) and action taken by the Prosecutor shall neither nullify the principle of complementarity nor prevent the Sudanese national court from invoking its jurisdiction against the perpetrators. We also believe that the cooperation of the Government of the Sudan with the ICC should be addressed in a comprehensive manner in the context of achieving peace and security.

Finally, we wish to underline the dependence of the Court on the conduct of its work. We believe that once a case has been referred to the Court, including by the Council, there should be no interference in the legal process. At the same time, we recognize and underline the responsibility of the Security Council to ensure that the Government of the Sudan complies fully with the provisions of Security Council resolution 1593 (2005). There cannot be any impunity.

Mr. Kumalo (South Africa): Let me congratulate you, Mr. President, on assuming the presidency for the month of December, and assure you of my delegation's support. Allow me also to thank the Ambassador of Indonesia for his sterling work in presiding over the Council during the month of November. I also wish to express my delegation's appreciation to the Prosecutor for International Criminal Court for his statement before this chamber and in particular for the important work that he is doing.

South Africa is a member of the International Criminal Court, and we remain committed to supporting the important work of the Court. We see the International Criminal Court as central to ending impunity for international crimes and to establishing conditions under which justice and the rule of law can be maintained. The Court, through its ability to deter further commission of international crimes, serves as an advocate of adherence to the rule of law, and thus we expect cooperation with its work.

We are acutely aware of the challenges facing the Prosecutor, arising primarily from the fact that the International Criminal Court does not have its own police or army to serve its warrants of arrest, and therefore depends entirely on the cooperation of States. It would seem to us that there is a responsibility upon the Security Council to demand the cooperation of

States, particularly in cases where the Security Council has referred cases to the Court.

In resolution 1593 (2005), the Security Council called upon the Government of the Sudan and all other parties in Darfur to cooperate fully and to provide necessary assistance to the Courts and the Prosecutor pursuant to that resolution. The Council also recognized in that resolution that, while the States not party to the Rome Statute have no obligation under the Statute, it none the less urged that all States and concerned regional and other international organizations cooperate fully with the Court. We urge the Government of the Sudan, and other parties involved in Darfur, to cooperate fully with the International Criminal Court.

We believe that there can be no military solution to the conflict in Darfur. A political process inclusive of all parties should be vigorously pursued. At the same time, we would hope that the African Union-United Nations Hybrid Operation in Darfur will be deployed on the ground as soon as possible to help stop the ongoing carnage in Darfur. This is the least that the people of Darfur would expect, as they are subjected to persecution, abuses and violations of fundamental human rights.

It is for this reason that we would support the Council's issuing a declaration reaffirming its position.

Mr. Christian (Ghana): I also wish to congratulate you, Mr. President, for assuming the presidency of the Council for the month of December, and I assure you, Sir, of the cooperation of my delegation. I also thank you, Sir, for organizing this informative briefing.

My delegation commends Ambassador Natalegawa for the excellent work done during Indonesia's presidency in November.

Ghana shares the view that the question of justice for the victims of war crimes and crimes against humanity is a integral part of the peace process and national reconciliation. In this regard, we wish to emphasize that the destabilizing effects of impunity are very real and must not be underestimated, especially within the context of the Sudan. We firmly believe that resolution 1593 (2005) has a special place in the Darfur peace process that must be fully implemented with the support of both the Government of the Sudan and the International Criminal Court. My delegation, therefore, remains concerned about the lack of significant progress in the judicial process in relation to the case involving those individuals for whom arrest warrants were issued in April 2007.

In this context, we call on the Government of the Sudan not to take any steps that could be construed as an affront or challenge to the Council's authority. We are of the view that the lack of cooperation by the Government of the Sudan with the Council and the International Criminal Court is not in the interest of any party. Appropriate measures must therefore be taken to break this impasse. In this regard, firm persuasion and pressure from the international community must be sustained. It is only then that we can make progress in this matter. To prolong the stalemate will send the wrong signal to potential and actual perpetrators of the most serious crimes elsewhere.

The recent killing of 10 peacekeepers of the African Union Mission in the Sudan (AMIS) reinforces our belief that when war crimes go unpunished, that only emboldens the spoilers to continue obstructing progress towards a political settlement and durable peace in Darfur.

On the question of admissibility, we agree with the Prosecutor that under the provisions of the Rome Statute the situation on the ground gives a strong basis for the admissibility of the Darfur situation before the Court. The Court therefore has a solid legal and moral basis to exercise jurisdiction.

Finally, we encourage the Office of the Prosecutor to continue with its outreach programme aimed at sensitizing victims and communities. It is vitally important that the Sudanese people see the International Criminal Court as an important ally in the protection of human rights.

Mr. Al-Nasser (Qatar) (*spoke in Arabic*): I would like to congratulate you, Sir, on your assumption of the presidency of the Security Council for this important month, whose agenda is full of important, sensitive topics. We are fully confident of your wisdom and ability, and we assure you of our full cooperation with you and your delegation. I would also like to extend our thanks and appreciation to the delegation of Indonesia for its outstanding work during the month of November.

Allow me also to thank Mr. Luis Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), for his report on the situation in Darfur, submitted pursuant to resolution 1593 (2005). We wish him continued success in his work.

Everyone agrees on the need to apply and uphold the principles of the rule of law, criminal accountability and justice, both in Darfur and in other areas of conflict, especially through punishing those who have committed violations of international humanitarian law. We therefore remain concerned about the direct and deliberate attacks by factions of rebel movement that remain outside the framework of the Darfur Peace Agreement, targeting peacekeepers, humanitarian personnel and even vehicles delivering humanitarian assistance, as well as setting up ambushes, looting and killing humanitarian personnel and African Union military observers, or threatening them at gunpoint.

The most striking evidence of this situation is October's murderous terrorist attack on the African Union Mission in Sudan (AMIS) in Haskanita. The Security Council has already condemned that attack and has demanded that no effort be spared to identify the perpetrators and bring them to justice. All such violations are crimes within the jurisdiction of the Sudanese judiciary and the International Criminal Court. The criminals stand in the way of progress towards peace in Darfur and should therefore be punished in accordance with the law.

My delegation calls on the Government of the Sudan to pursue its investigations, to prosecute all those charged with crimes against humanity in Darfur, pursuant to Sudanese criminal law, international humanitarian law and the relevant international conventions, and to take all actions necessary to prevent impunity. In this regard, we also call on the Prosecutor unfailingly to recall that the jurisdiction of the ICC is complementary to national jurisdiction. We therefore call on him to refer his cases and investigations to the Sudanese judiciary, as appropriate.

We also call on the Prosecutor to continue to perform his work in a discreet and professional manner and not to draw conclusions about the nature of the crimes committed or the persons accused of committing them until he has fully and impartially completed his investigations and until he has carefully and objectively evaluated the investigations and proceedings conducted by the Sudanese judiciary. We call on the Government of the Sudan, for its part, to cooperate with the Prosecutor of the ICC to achieve those goals.

I would like on this occasion to assure the Council that the State of Qatar has made strenuous and sustained efforts to urge the Government of the Sudan to cooperate with the Court in accordance with international legitimacy. We should not view the ICC or its Prosecutor as political tools in the hands of the Security Council; rather, the Court must be seen as an independent and impartial judicial body that strives to reach a loftier goal: achieving justice and not political goals or purposes.

In this regard, we support the finding of the Prosecutor that there is considerable uncertainty surrounding the list of names submitted by the International Commission of Inquiry and persons named by the Security Council Committee established pursuant to resolution 1591 (2005) or by the Security Council itself in resolution 1672 (2006), and that the identification of indictees by the Office of the Prosecutor is not limited to the list of suspects established by those bodies.

Expediting the investigations and indicting or prosecuting all those suspected of committing violations of international humanitarian law, both at the national and international levels, must not be to the detriment of justice and the rights of indictees to a fair trial where all their procedural rights are guaranteed and the standards and principles of due process respected. Having said that, we call on all parties to take into account national and international judicial procedures and not to seek to influence them in any way whatsoever, but rather to support them fully in order to reach the ultimate goal, namely, justice and the rule of law, so that security, peace and stability can prevail in Darfur.

The references in the Prosecutor's report to the lack of information regarding measures taken by the Government of the Sudan to protect the international forces — apart from being undocumented allegations that have been denied by the Government of the Sudan — constitute a departure from the purview of the report mandated by the Security Council in resolution 1593 (2005), since that matter constitutes a political issue unrelated to the work of the Court.

That is also the case, for instance, with respect to the report's assessment of the policies of the Government of the Sudan, the allegation that Sudanese aircraft have been painted with African Union or United Nations colours and flags to be used in the campaign against the rebellion in Darfur, and the conclusion that such actions undermine the work of the United Nations and the African Union. All those views mark a change in the Prosecutor's methodology, to which we have become accustomed, in which he has confined himself to addressing issues that are related to the judicial process, not to the political process or the Hybrid Operation.

It is worth noting that the Government of the Sudan, from the legal point of view, has several options, not only that of handing over the suspects. In fact, the Government of the Sudan can, in accordance with articles 19 and 82 of the Statute of the International Criminal Court, challenge the admissibility of the case. We must, therefore, not prejudge an offence by putting emphasis on the arrest and handing over of the wanted individuals as the only option. That option is not the only one as long as the possibility of appeal is still open.

Consequently, we must understand the legal and judicial rights of the Sudan according to the Statute of the Court. As we have already said, taking any action outside the legal and judiciary processes would be at the expense of justice and the right of the indictees to a fair trial, including the right to appeal. As for our observations on the briefing by the Prosecutor and the statements of some States, we see that the right of the Government of the Sudan to challenge the decision of the Pre-Trial Chamber based on articles 19 and 82 of the Statute of the ICC is being ignored while focus is being put only on the aspect of arresting the indictees and handing them over.

Once again, we stress that the Council must proceed cautiously in this case. The invitation by the Prosecutor of the International Criminal Court to the Security Council and the regional organizations to urge the Government of the Sudan to cooperate with the Court must not be interpreted as a request for action on the part of the Council against the Sudan, for this issue is a legal and judicial issue that we do not want to politicize in any way. We believe that the Prosecutor agrees with us on that matter.

Mr. Voto-Bernales (Peru) (*spoke in Spanish*): I would like to start by congratulating you, Ambassador Spatafora, on assuming the presidency of the Security Council for the month of December 2007. We are certain that under your leadership we will be able to successfully conclude of the work planned for this month. I can pledge my delegation's full support to this end. I would also like to acknowledge the work accomplished by Ambassador Natalegawa and his team and to congratulate them on the excellent manner in which they conducted the Council's work during November.

I would like to thank the Prosecutor of the International Criminal Court (ICC), Mr. Moreno-Ocampo, on his detailed and precise presentation on the investigations into the situation in Darfur and on the level of cooperation with the Government of the Sudan in this regard. What the Prosecutor has told us in his report gives rise to great concern. The lack of cooperation between the Government of the Sudan and the Prosecutor's Office and the fact that the Sudanese Government has not taken action in order to implement the arrest warrants issued by the Court is of particular concern. Additionally, one of the indictees continues to exercise official duties within the Government and, paradoxically, in the humanitarian sphere. In turn, the Prosecutor has also indicated that crimes for which the Court holds jurisdiction continue to be committed in Darfur.

We take note of the Prosecutor's view that those crimes are taking place with the knowledge of the military and civil authorities of the Sudan. The Prosecutor's evaluation of the complementarity issue has been rigorous and he has concluded that national jurisdiction has not launched nor is it in the process of launching legal proceedings in respect of those individuals sought by the Prosecutor.

The Security Council acknowledges that the situation in Darfur constitutes a serious threat to international peace and security, which has already resulted in the numerous deaths of innocent people and has endangered the lives of millions of lives of internally displaced peoples. It was this Council that referred the situation in Darfur to the ICC in 2005 with the understanding that the sanctions for the serious crimes perpetrated and the end to impunity as a dissuasive element would serve to restore peace in this region.

The Government of the Sudan has the legal obligation to cooperation with the Court in accordance with resolution 1593 (2005). As a Member State of the United Nations, the Sudan is therefore obliged to fulfil the provisions of the United Nations Charter, that is, to abide by Security Council resolutions. Its quality as a non-State party to the Rome Statute is not relevant in this context.

Therefore, we call, once again, on the Government of the Sudan to immediately arrest and to transfer Ahmad Harun and Ali Kushayb to the ICC. In turn, we are of the view that the Council must uphold the relevance of its decisions and ensure that these decisions are fulfilled. In view of the Prosecutor's report, the Security Council must act in a consequent manner in accordance with its responsibilities with regard to the maintenance of international peace and security and must, therefore, express the need for the Sudanese Government to comply with resolution 1593 (2005) and to cooperate with the ICC.

Finally, Peru would like to reiterate its support of the work accomplished by the Prosecutor of the ICC and to congratulate him on his professionalism and impartiality.

Mr. Okio (Congo) (*spoke in French*): First of all, I would like to congratulate you, Mr. President, on your assuming the presidency of the Security Council for December and, of course, to assure you of the full cooperation of my delegation. My delegation would also like to express its thanks to the Indonesian delegation and, of course, Ambassador Natelegawa for the brilliant presidency last month.

We have very carefully followed the presentation of the sixth report of the International Criminal Court (ICC) that has just been given to us by the Prosecutor, Mr. Moreno-Ocampo, who we welcome.

Having listened to his presentation, we would like to note that this report reveals the ongoing deterioration of the humanitarian situation in Darfur and the ongoing war crimes, crimes against humanity and grave violations of international humanitarian law. All this cannot fail to affect our collective conscience.

This is the opportunity for my delegation to welcome the efforts of the Prosecutor and his team. We would like to assure him of our support and we have been able to express this support to him during our meetings last August. The Congo has always supported all of the efforts of the Security Council and all actions to combat impunity.

In the specific case of Darfur, the Congo has to deplore the lack of cooperation from the Sudanese Government. Everyone involved must be brought before justice and we would like to call on the Sudanese Government to take the necessary steps under its jurisdiction. However, in saying this, the Congo would like to insist on the fact that all of the perpetrators in Darfur must be charged. Here, we are thinking as well of those on the other side, those in the rebel movements for instance. If the two indictees cited by the Prosecutor represent, as he said, the first stage, the second stage should be visible as well.

Impartiality will serve as the criterion for judging the action of the Court and, of course, the Security Council. A firm and unanimous message would be one that spared no parties. The perpetrators of attacks against the African Union peacekeepers — this was something mentioned in previous consultations — must also answer for their actions. We would call upon the ICC to pursue its inquiries in this regard. All perpetrators of crimes against humanity, human rights violations and atrocities, wherever they may be, in Darfur or elsewhere, must be made responsible for their actions.

That is the role of the Court, and we will support it in all its efforts in that regard. It is through such work, to paraphrase the representative of Belgium, that justice will become a factor for peace and stability. We agree with those who spoke earlier that the Council must provide all its support to the International Criminal Court in carrying out its work.

The President: I want, in my capacity as President, to thank very warmly all my colleagues who have expressed their congratulations and their commitment to support and cooperation. That will be essential, and as President I appreciate it very much. The strength and credibility of the Council will depend on the solidity of its unity.

I shall now make a statement in my capacity as representative of Italy.

First of all, like previous speakers, Italy strongly appreciates Mr. Moreno-Ocampo's briefing and reiterates its full support for the International Criminal Court (ICC) and its Prosecutor.

Italy reaffirms its strong conviction that the fight against impunity for serious violations of international humanitarian law and human rights law must be a priority of the international community. Such grave violations must be prosecuted and punished either at the national or the international level. That is a must, not only because such violations are intrinsically outrageous, but also because they represent a continuous threat to international peace and security.

Bearing that in mind, the Security Council, in its resolution 1593 (2005) — as many others have noted here around the table, but I think it is good to recall once more that decision of the Council, just to send the strong message that all of us want to send — decided to refer the situation in Darfur to the International Criminal Court, stating that "the Government of Sudan and all other parties to the conflict in Darfur, shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor pursuant to this resolution" (*resolution 1593 (2005), para. 2*).

Cooperation is a dynamic process that requires an ongoing dialogue between all the parties concerned and mutual confidence to establish productive relationships based on mutual respect. That cannot be achieved without the fulfilment of obligations deriving from the United Nations Charter and other relevant provisions of international law. We are concerned by the reported lack of cooperation of the Government of the Sudan in the implementation of resolution 1593 (2005).

Italy commends the efforts made by various national and international actors to bring a comprehensive and lasting peace to Darfur. It must be noted, however, that those efforts have not been sufficient to relieve the civilian population from violence and suffering. In particular, further efforts have to be made to establish accountability for crimes committed in Darfur, starting with the execution of the arrest warrants issued by the ICC last April.

I think it is important to keep in mind what several previous speakers have highlighted — the multidimensional nature of the process. We have the political dimension, the security dimension, the development dimension, the humanitarian dimension and the human rights/rule of law/no culture of impunity dimension. All those tracks, as has been said, are mutually reinforcing. Mutually reinforcing means that it is not a zero-sum game. It is not, for example, that if we accelerate on the political track, we have to decelerate on other tracks. I think we have to keep that in mind.

The execution of ICC arrest warrants should not be seen as the sole purpose of the cooperation process, as has been said by other speakers before me. The prosecution of all the alleged perpetrators is of crucial importance in preventing further offences and in settling accounts with the past. We understand that investigation activities are still going on in Darfur, and in that regard Italy notes that the Prosecutor has informed the Council that his Office "has also documented attacks committed by rebel factions that warrant further investigation by the Office".

Finally, we strongly support a response of the Council, as has been mentioned by others, to the briefing heard today in order to reaffirm resolution 1593 (2005) and the need for all parties to the conflict in Darfur to cooperate fully with the International Criminal Court, including in the execution of the arrest warrants. I hope that we will be able to send a strong message.

I now resume my functions as President of the Council.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 12.05 p.m.